

§ 12.104f

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U.S. in accordance with part 162 of this chapter.

(1) Any designated archaeological or ethnological material which is forfeited to the U.S. shall, in accordance with the provisions of Title III of Pub. L. 97–446, 19 U.S.C. 2609(b):

(i) First be offered for return to the State Party;

(ii) If not returned to the State Party be returned to a claimant with respect to whom the designated material was forfeited if that claimant establishes—

(A) Valid title to the material;

(B) That the claimant is a bona fide purchaser for value of the material; or

(iii) If not returned to the State Party under paragraph (a)(1)(i) of this section or to a claimant under paragraph (a)(1)(ii) of this section, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws. No return of material may be made under paragraph (a)(1) (i) or (ii) of this section unless the State Party or claimant, as the case may be, bears the expenses incurred incident to the return and delivery, and complies with such other requirements relating to the return as the Secretary shall prescribe.

(b) Whenever any stolen article of cultural property is imported into the U.S. in violation of 19 U.S.C. 2607, such cultural property shall be seized and forfeited to the U.S. in accordance with part 162 of this chapter.

(1) Any stolen article of cultural property which is forfeited to the U.S. shall, in accordance with the provisions of Title III of Pub. L. 97–446, 2609(c):

(i) First be offered for return to the State Party in whose territory is situated the institution referred to in 19 U.S.C. 2607 and shall be returned if that State Party bears the expenses incident to such return and delivery and complies with such other requirements relating to the return as the Secretary prescribes; or

(ii) If not returned to such State Party, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

§ 12.104f Temporary disposition of materials and articles.

Pending a final determination as to whether any archaeological or ethnological material, or any article of cultural property, has been imported into the U.S. in violation of 19 U.S.C. 2606 or 19 U.S.C. 2607, the Secretary may permit such material or article to be retained at a museum or other cultural or scientific institution in the U.S. if he finds that sufficient safeguards will be taken by the museum or institution for the protection of such material or article; and sufficient bond is posted by the museum or institution to ensure its return to the Secretary.

§ 12.104g Specific items or categories designated by agreements or emergency actions.

(a) The following is a list of agreements imposing import restrictions on the described articles of cultural property of State Parties. The listed Treasury Decision contains the Designated Listing with a complete description of specific items or categories of archaeological or ethnological material designated by the agreement as coming under the protection of the Convention on Cultural Property Implementation Act. Import restrictions listed below shall be effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods of not more than five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists. Any such extension is indicated in the listing.

State party	Cultural Property	Decision No.
Bolivia	Archaeological and Ethnological Material from Bolivia	T.D. 01–86
Cambodia	Khmer Archaeological Material from the 6th century through the 16th century A.D.	CBP Dec. 03–28
Canada	Archaeological artifacts and ethnological material culture of Canadian origin.	T.D. 97–31

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State party	Cultural Property	Decision No.
Colombia	Pre-Columbian Archaeological Material ranging approximately from 1500 B.C. to 1530 A.D. and ecclesiastical ethnological material of the Colonial period ranging approximately from A.D. 1530 to 1830.	CBP Dec. 06–09.
Cyprus	Archaeological Material of pre-Classical and Classical periods ranging approximately from the 8th millennium B.C. to 330 A.D..	T.D. 02–37
El Salvador	Archaeological material representing Prehispanic cultures of El Salvador.	T.D. 95–20 extended by CBP Dec. 05–10
Guatemala	Archaeological material from sites in the Peten Lowlands of Guatemala, and related Pre-Columbian material from the Highlands and the Southern Coast of Guatemala.	T.D. 97–81 extended by T.D. 02–56
Honduras	Archaeological Material of Pre-Colombian cultures ranging approximately from 1200 B.C. to 1500 A.D.	CBP Dec. 04–08
Italy	Archaeological Material of pre-Classical, Classical, and Imperial Roman periods ranging approximately from the 9th century B.C. to the 4th century A.D..	T.D. 01–06 extended by CBP Dec. 06–01
Mali	Archaeological material from the Niger River Valley Region, Mali, and the Bandiagara Escarpment (Cliff) forming part of the remains of the sub-Saharan culture.	T.D. 97–80 extended by T.D. 02–55
Nicaragua	Archaeological material of pre-Columbian cultures ranging approximately from 8000 B.C. to 1500 A.D.	T.D. 00–75 extended by CBP Dec.05–33
Peru	Archaeological artifacts and ethnological material from Peru ..	T.D. 97–50 extended by T.D. 02–30

(b) The following is a list of emergency actions imposing import restrictions on the described articles of cultural property of State Parties. The listed decision contains a complete description of specific items or categories of archaeological or ethnological material designated by the emergency actions as coming under the protection of the Convention on Cultural Property Implementation Act. Import restric-

tions listed below shall be effective for no more than five years from the date on which the State Party requested those restrictions. This period may be extended for three more years if it is determined that the emergency condition continues to apply with respect to the archaeological or ethnological material. Any such extension is indicated in the listing.

State party	Cultural property	Decision No.
Cyprus	Byzantine ecclesiastical and ritual ethnological materials from Cyprus.	T.D. 99–35 extended by CBP Dec. 03–25

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[T.D. 86-52, 51 FR 6907, Feb. 27, 1986, as amended by T.D. 90-3, 55 FR 1810, Jan. 19, 1990; T.D. 90-37, 55 FR 19030, May 7, 1990; T.D. 91-34, 56 FR 15182, Apr. 15, 1991; T.D. 92-28, 57 FR 9975, Mar. 23, 1992; T.D. 93-34, 58 FR 29349, May 20, 1993; T.D. 93-74, 58 FR 49430, Sept. 23, 1993; T.D. 94-54, 59 FR 32903, June 27, 1994; T.D. 94-84, 59 FR 54818, Nov. 2, 1994; T.D. 95-20, 60 FR 13360, 13361, Mar. 10, 1995; T.D. 97-31, 62 FR 19492, Apr. 22, 1997; T.D. 97-50, 62 FR 31721, June 11, 1997; T.D. 97-80, 62 FR 49596, Sept. 23, 1997; T.D. 97-81, 62 FR 51774, Oct. 3, 1997; T.D. 99-35, 64 FR 17531, Apr. 12, 1999; T.D. 99-88, 64 FR 67481, Dec. 2, 1999; T.D. 00-16, 65 FR 12470, Mar. 9, 2000; T.D. 00-75, 65 FR 64142, Oct. 26, 2000; T.D. 01-06, 66 FR 7401, Jan. 23, 2001; T.D. 01-86, 66 FR 63499, Dec. 7, 2001; 67 FR 953, Jan. 8, 2002; T.D. 02-30, 67 FR 38878, June 6, 2002; T.D. 02-37, 67 FR 47449, July 19, 2002; T.D. 02-55, 67 FR 59160, Sept. 20, 2002; T.D. 02-56, 67 FR 61260, Sept. 30, 2002; CBP Dec. 03-25, 68 FR 51904, Aug. 29, 2003; CBP Dec. 03-28, 68 FR 55004, Sept. 22, 2003; 68 FR 58371, Oct. 9, 2003; CBP Dec. 04-08, 69 FR 12270, Mar. 16, 2004; CBP Dec. 05-10, 70 FR 11540, Mar. 9, 2005; CBP Dec. 05-33, 70 FR 61032, Oct. 20, 2005; CBP Dec. 06-01, 71 FR 3001, Jan. 19, 2006; CBP Dec. 06-09, 71 FR 13766, Mar. 17, 2006]

§ 12.104h Exempt materials and articles.

The provisions of these regulations shall not apply to—

(a) Any archaeological or ethnological material or any article of cultural property which is imported into the U.S. for temporary exhibition or display, if such material or article is rendered immune from seizure under judicial process by the U.S. Information Agency, Office of the General Counsel and Congressional Liaison, pursuant to the Act entitled “An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes”, approved October 19, 1965 (22 U.S.C. 2459); or

(b) Any designated archaeological or ethnological material or any article of cultural property imported into the U.S. if such material or article—

(1) Has been held in the U.S. for a period of not less than 3 consecutive years by a recognized museum or religious or secular monument or similar institution, and was purchased by that institution for value, in good faith, and without notice that such material or

article was imported in violation of these regulations, but only if—

(i) The acquisition of such material or article has been reported in a publication of such institution, any regularly published newspaper or periodical with a circulation of at least 50,000, or a periodical or exhibition catalog which is concerned with the type of article or materials sought to be exempted from these regulations,

(ii) Such material or article has been exhibited to the public for a period or periods aggregating at least 1 year during such 3-year period, or

(iii) Such article or material has been cataloged and the catalog material made available upon request to the public for at least 2 years during such 3-year period;

(2) If paragraph (b)(1) of this section does not apply, has been within the U.S. for a period of not less than 10 consecutive years and has been exhibited for not less than 5 years during such period in a recognized museum or religious or secular monument or similar institution in the U.S. open to the public;

(3) If paragraphs (b) (1) and (2) of this section do not apply, has been within the U.S. for a period of not less than 10 consecutive years and the State Party concerned has received or should have received during such period fair notice (through such adequate and accessible publication, or other means, as the Secretary or his designee shall prescribe) of its location within the U.S.; and

(4) If none of the preceding subparagraphs apply, has been within the U.S. for a period of not less than 20 consecutive years and the claimant establishes that it purchased the material or article for value without knowledge or reason to believe that it was imported in violation of law.

§ 12.104i Enforcement.

In the customs territory of the United States, and in the U.S. Virgin Islands, the provisions of these regulations shall be enforced by appropriate customs officers. In any other territory or area within the U.S., but not within